

# ACLU: American Civil Liberties Union of Michigan

## Issues

### ACLU Seeks Records about State Police Searches of Cellphones

FOR IMMEDIATE RELEASE:

April 13, 2011

DETROIT – The American Civil Liberties Union of Michigan urged the Michigan State Police (MSP) today to release information regarding the use of portable devices which can be used to secretly extract personal information from cell phones during routine stops.

For nearly three years, the ACLU has repeatedly asked for this information through dozens of Freedom of Information Act requests, but to date it has not been provided.

Read our letter to the Michigan State Police.

“Transparency and government accountability are the bedrocks of our democracy,” said Mark P. Fancher, ACLU of Michigan Racial Justice Project staff attorney. “Through these many requests for information we have tried to establish whether these devices are being used legally. It’s telling that Michigan State Police would rather play this stalling game than respect the public’s right to know.”

**Several years ago, MSP acquired portable devices that have the potential to quickly download data from cell phones without the owner of the cellphone knowing.**

The ACLU of Michigan expressed concern about the possible constitutional implications of using these devices to conduct suspicionless searches without consent or a search warrant.

In August 2008, the ACLU of Michigan filed its first FOIA request to acquire records, reports and logs of actual use.

Documents provided in response confirmed the existence of these devices, but MSP claimed that the cost of retrieving and assembling the documents that disclose how five of the devices are being used is \$544,680. The ACLU was then asked to pay a \$272,340 deposit before the organization could receive a single document.

In order to reduce the cost, the ACLU of Michigan narrowed the scope of its request. However, each time the ACLU submitted more narrow requests, MSP claimed that no documents exist for that time period and then it refused to reveal when the devices were used so a proper request could be made.

“We should not have to go on expensive fishing expeditions in order to discover whether police are violating the rights of residents they have resolved to protect and serve,” said Fancher.

According to CelleBrite, the manufacturer of at least some of the devices acquired by MSP, the product can extract a wide variety of data from cellphones including contacts, text messages, deleted text messages, call history, pictures, audio and video recordings, phone details including the phone number and complete memory file dumps on some handsets.

In its three-page letter, the ACLU of Michigan explained that the use of such devices may violate Fourth Amendment protections against unreasonable searches if a warrant is not issued. In addition, the organization would like to determine if MSP is disproportionately downloading the personal information of people of color.

Recently, the national ACLU took on a similar issue challenging a federal policy of searching, copying and detaining travelers' laptops, cell phones and other electronic devices at airports and the border without suspicion of wrongdoing.

Today's letter was signed by Fancher and Michael J. Steinberg, ACLU of Michigan legal director.

### **Key News and Documents**

- ▶ **Document | Read the ACLU's letter to the Michigan State Police**
- ▶ **More Info |** Learn more about ACLU challenges to police laptop searches
- ▶ **More Info |** The Technology and Liberty Program

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### **State Police Officers are**

Submitted by ACLU of Michigan on Mon, 05/16/2011 - 17:16.

State Police Officers are some of the most highly trained law enforcement officers in the nation. Any officer that uses these devices without a warrant is blatantly and knowingly violating the constitution, and the victims constitutional rights. Officers found using or to have used these devices without a search warrant should be fired, charged with a crime, and imprisoned when found guilty of that crime. Their superiors should be put on trial as accomplices in these crimes and also imprisoned. The State Police of Michigan and the State of Michigan should be liable for damages when they intentionally violate citizens constitutional rights.

reply

### **The failure of the MSP to**

Submitted by ACLU of Michigan on Mon, 05/02/2011 - 14:12.

The failure of the MSP to comply is wholly unacceptable. This activity proceeds in violation of the law while public servants lie about costs involved in answering simple requests for due clarity. Police administrators and other involved in this response should face termination - or retraining in the proper role of public employees - and the information requests should be granted immediately, by a judge if necessary. As a nation, we need to end our increasingly steep slide into authoritarianism. We've endure years of attack on government while failing to recognize that emaciated and embattled government is always bad government. Attacking government from a corporate standpoint nets a certain subset of society short-term profits. But over time, the degradation of public life leaves us with a dirty, broken-down country with failing infrastructure in use by a distracted, propagandized, and dumber populace and served by a surly and abusive pool of overstretched

visited on 3/1/2012

public employees no one likes. It's a recipe for self-defeat we can put aside or continue to use. Push on and save our country from itself.

reply

**Continue to press the MSP,**

Submitted by ACLU of Michigan on Fri, 05/06/2011 - 17:41.

Continue to press the MSP, including filing court action. I agree we have been on a slippery slope and we are complicit as citizens if we don't protest.

reply

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